**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**MISC.CIVIL APPLICATION NO. 64 OF 2006.**

Sau.Lalita w/o.Dipak Sonawane. ... Applicant.

Versus.

Dipak Jagannath Sonawane. ... Respondent.

Mrs.Jayashree P.Akolkar for the Applicant.

Shri P.D.Dalvi for the Respondent.

**CORAM : ABHAY S.OKA, J.**

**DATED : 21st June, 2007.**

**P.C.:**

1. Heard the Advocate for the Applicant and the Advocate for the Respondent. The Applicant is the wife and the Respondent is her husband. The Respondent filed a petition for divorce under the Hindu Marriage Act, 1955 in the Court of the Civil Judge, Senior Division, Kalyan. By this application, transfer of the said petition is sought from the Court at Kalyan to the Family Court at Aurangabad on the ground that it is impossible for the Applicant who is the permanent resident of Aurangabad to visit Kalyan and to attend the Court. The prayer is also made for grant of interim maintenance to the Applicant.

2. There is a reply filed by the Respondent. It is pointed out in the reply that the hearing of the petition has already commenced. It is also stated that the Respondent is working as a Police Constable and is unable to secure leave and therefore, it will be very difficult for him to attend to the petition, if it is

transferred to Aurangabad.

3. I have considered the submissions. It is brought to my notice that the Applicant appeared through an Advocate in the petition filed by the Respondent on 30th January 2006. It is an admitted position that the affidavits of evidence of the Respondent as well as three other witnesses have been already filed on record in the year 2006. The present Application has been filed in March 2006. There was an order passed against the Applicant recording that no cross examination of the witnesses has been made by the Applicant. Now that order has been set aside and the petition is kept on 6th July 2007.

4. The learned Advocate for the Respondent on instructions of the Respondent states that if there are any arrears of interim maintenance awarded by the trial Court, the entire amount of arrears will be deposited by the Respondent in the trial Court within a period of two weeks from today. The learned Advocate for the Respondent stated that on every date fixed in the trial Court, the Respondent is ready and willing to pay to the Applicant a sum of Rs.1000/- by way of travelling expenses provided the Applicant attends the Court. The said statement is accepted. The learned Advocate for the Applicant states that the sum of Rs.1000/- is on the lower side.

5. The affidavits of evidence of four witnesses are already on record. The difficulty expressed by the Respondent is that he is unable to secure leave as he is in Police force. The Respondent has offered to pay the entire arrears of maintenance and to pay travelling expenses. Considering the stage at which the petition is pending, no case is made out for passing an order of transfer. If the Applicant is not happy with the payment of the sum of Rs.1000/- per day, it will be open for the Applicant to file appropriate application before the trial Court for enhancement in the amount of travelling expenses. Till the date such application, if any, made by the Applicant is decided, the Respondent will continue to pay the said sum of Rs.1000/- per day to the Applicant by way of travelling expenses. The statement made by the learned Advocate for the Respondent that the Respondent will deposit the entire arrears of maintenance within a period of two weeks is accepted.

6. Till the entire arrears of maintenance, if any, are deposited by the Respondent, the trial Court will not proceed with the further trial.

7. Subject to what is stated above, the Misc.Civil Application is rejected.

Judge.